

REFERENCE TITLE: elections; procedures

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

HB 2148

Introduced by
Representative Quelland

AN ACT

AMENDING TITLE 16, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-410; AMENDING SECTIONS 16-461, 16-510, 16-546, 16-593, 16-602, 16-610 AND 16-621, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS AND ELECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 16, chapter 4, article 1, Arizona Revised Statutes,
3 is amended by adding section 16-410, to read:

4 16-410. Emergency election postponement; declaration

5 A. AFTER CONSULTATION WITH THE CLERK OF THE BOARD OF SUPERVISORS OF
6 EACH AFFECTED COUNTY, THE SECRETARY OF STATE MAY ISSUE A DECLARATION
7 POSTPONING THE DATE OF AN ELECTION AS THE RESULT OF CIVIL DISORDER, A NATURAL
8 DISASTER, A STATE OF EMERGENCY OR ANY OTHER CATASTROPHIC EVENT. ON ISSUANCE
9 OF THE DECLARATION, THE AFFECTED ELECTION IS POSTPONED.

10 B. THE SECRETARY OF STATE SHALL PROMPTLY SET A DATE ON WHICH THE
11 POSTPONED ELECTION WILL BE HELD. THE DATE OF THE POSTPONED ELECTION SHALL
12 NOT BE LATER THAN FOURTEEN CALENDAR DAYS AFTER THE ORIGINAL DATE OF THE
13 ELECTION.

14 Sec. 2. Section 16-461, Arizona Revised Statutes, is amended to read:

15 16-461. Sample primary election ballots; submission to party
16 chairmen for examination; preparation, printing and
17 distribution of ballot

18 A. At least forty-five days before a primary election, the officer in
19 charge of that election shall:

20 1. Prepare a proof of a sample ballot.

21 2. Submit the sample ballot proof of each party to the county chairman
22 or in city or town primaries to the city or town chairman.

23 3. Mail a sample ballot proof to each candidate for whom a nomination
24 paper and petitions have been filed.

25 B. Within five days after receipt of the sample ballot, the county
26 chairman of each political party shall suggest to the election officer any
27 change the ~~officer~~ CHAIRMAN considers should be made in the ~~officer's~~
28 CHAIRMAN'S party ballot, and if upon examination the election officer finds
29 an error or omission in the ballot the officer shall correct it. The
30 election officer shall cause the sample ballots to be printed and distributed
31 as required by law, shall maintain a copy of each sample ballot and shall
32 post a notice indicating that sample ballots are available on request. The
33 official sample ballot shall be printed on colored paper. For voters who are
34 not registered with a party that is entitled to continued representation on
35 the ballot pursuant to section 16-804, the election officer may print and
36 distribute the required sample ballots in an alternative format, including a
37 reduced size format.

38 C. Not later than forty days before a primary election, the county
39 chairman of a political party may request one sample primary election ballot
40 of the chairman's party for each election precinct.

41 D. The board of supervisors shall have printed mailer-type sample
42 ballots for a primary election and shall mail at least eleven days prior to
43 the election one sample ballot of a political party to each household
44 containing a registered voter of that political party. EACH SAMPLE BALLOT
45 SHALL CONTAIN THE FOLLOWING STATEMENT: "THIS IS A SAMPLE BALLOT AND CANNOT

1 BE USED AS AN OFFICIAL BALLOT UNDER ANY CIRCUMSTANCES". A certified claim
2 shall be presented to the secretary of state by the board of supervisors for
3 the actual cost of printing, labeling and postage of each sample ballot
4 actually mailed, and the secretary of state shall direct payment of the
5 authenticated claim from funds of the secretary of state's office.

6 E. For city and town elections, the governing body of a city or town
7 may have printed mailer-type sample ballots for a primary election. If the
8 city or town has printed such sample ballots, the city or town shall provide
9 for the distribution of such ballots and shall bear the expense of printing
10 and distribution of such sample ballots.

11 F. The return address on the mailer-type sample ballots shall not
12 contain the name of an appointed or elected public officer nor may the name
13 of an appointed or elected public officer be used to indicate who produced
14 the sample ballot.

15 G. The great seal of the state of Arizona shall be imprinted along
16 with the words "official voting materials" on the mailing face of each sample
17 ballot. In county, city or town elections the seal of such jurisdiction
18 shall be substituted for the state seal.

19 Sec. 3. Section 16-510, Arizona Revised Statutes, is amended to read:

20 16-510. Sample ballots; preparation and distribution

21 A. Before printing the sample ballots for the general election the
22 board of supervisors shall send to each candidate whose name did not appear
23 on the preceding primary election ballot a ballot proof of the sample ballot
24 for ~~his~~ THE CANDIDATES review.

25 B. The board of supervisors shall print and distribute, for the
26 information of voters at each polling place, a number of sample ballots as it
27 deems necessary.

28 C. The board of supervisors shall have printed mailer-type sample
29 ballots for a general election and shall mail at least eleven days prior to
30 the election one such sample ballot to each household in the county
31 containing a registered voter. EACH SAMPLE BALLOT SHALL CONTAIN THE
32 FOLLOWING STATEMENT: "THIS IS A SAMPLE BALLOT AND CANNOT BE USED AS AN
33 OFFICIAL BALLOT UNDER ANY CIRCUMSTANCES". A certified claim shall be
34 presented to the secretary of state by the board of supervisors for the
35 actual cost of printing, labeling and postage of each such sample ballot
36 actually mailed, and the secretary of state shall direct payment of such
37 authenticated claim from funds of his office.

38 D. For city and town elections, the governing body of a city or town
39 may have printed mailer-type sample ballots for a general election. If the
40 city or town has printed such sample ballots, the city or town shall provide
41 for the distribution of such ballots and shall bear the expense of printing
42 and distributing such sample ballots.

43 E. For special district elections, the governing body of a special
44 district may have printed mailer-type sample ballots. If the special
45 district has printed such sample ballots, the special district shall provide

1 for the distribution of such ballots and shall bear the expense of printing
2 and distributing such sample ballots.

3 Sec. 4. Section 16-546, Arizona Revised Statutes, is amended to read:
4 16-546. Early votes

5 A. Early votes may be cast on paper ballots or ballot cards, except
6 that any county, city or town in which electronic machines are used shall
7 have a punch card early ballot suitable for data processing machines which
8 shall be identical to those used in precinct voted ballots. Such ballot
9 shall provide the same information as a marked paper ballot.

10 B. In the event early voter ballots are to be tabulated by an
11 electronic or electromechanical tabulating device, the county recorder or
12 other officer in charge of elections ~~may~~ **SHALL** also deliver to the applicant
13 a marking device which would make a mark suitable for use with the electronic
14 or electromechanical device or a supply of stickers which would be suitable
15 for use with the electronic or electromechanical tabulating device.

16 Sec. 5. Section 16-593, Arizona Revised Statutes, is amended to read:
17 16-593. Rules determining residence of voter on challenge;
18 reading of rules on request

19 A. The election board, in determining the place of residence of a
20 person, shall be governed by the following rules, so far as applicable:

21 1. The residence of a person is that place in which ~~his~~ **THE PERSON'S**
22 habitation is fixed and to which ~~he~~ **THE PERSON** has the intention of returning
23 when absent.

24 2. A person does not gain or lose ~~his~~ **THE PERSON'S** residence by reason
25 of ~~his~~ **THE PERSON'S** presence at or absence from a place while employed in the
26 service of the United States or of this state, or while engaged in
27 navigation, or while a student at an institution of learning or while kept in
28 an almshouse, asylum or prison.

29 3. A person does not lose ~~his~~ **THE PERSON'S** residence by leaving ~~his~~
30 **THE PERSON'S** home to go to another county, state or foreign country for
31 merely temporary purposes, with the intention of returning.

32 4. A person does not gain a residence in any county into which ~~he~~ **THE**
33 **PERSON** comes for merely temporary purposes, without the intention of making
34 that county ~~his~~ **THE PERSON'S** home.

35 5. If a person removes to another state with the intention of making
36 it ~~his~~ **THE PERSON'S** residence, ~~he~~ **THE PERSON** loses ~~his~~ **THE PERSON'S** residence
37 in this state.

38 6. If a person removes to another state with the intention of
39 remaining there for an indefinite time, and of making the place ~~his~~ **THE**
40 **PERSON'S** present residence, ~~he~~ **THE PERSON** loses ~~his~~ **THE PERSON'S** residence in
41 this state, even though ~~he~~ **THE PERSON** has an intention of returning at some
42 future period.

1 7. The place where a person's family permanently resides is ~~his~~ THE
 2 PERSON'S residence, unless ~~he~~ THE PERSON is separated from ~~his~~ THE PERSON'S
 3 family, but if it is a place of temporary establishment for ~~his~~ THE PERSON'S
 4 family, or for transient purposes, it is otherwise.

5 8. If a person has a family residing in one place and ~~he~~ THE PERSON
 6 does business in another, the former is ~~his~~ THE PERSON'S place of residence,
 7 but a person having a family who has taken up ~~his~~ THE PERSON'S abode with the
 8 intention of remaining and whose family does not so reside with ~~him~~ THE
 9 PERSON shall be regarded as a resident where ~~his~~ THE PERSON'S abode has been
 10 taken.

11 9. The mere intention of acquiring a new residence without the act of
 12 removal avails nothing and neither does the act of removal without the
 13 intention.

14 10. A PERSON WHO HAS NEVER RESIDED IN THE UNITED STATES AND WHOSE
 15 PARENT IS A UNITED STATES CITIZEN WHO IS REGISTERED TO VOTE IN THIS STATE IS
 16 A RESIDENT OF THIS STATE FOR PURPOSES OF REGISTERING AND VOTING.

17 B. The term of residence shall be computed by including the day on
 18 which the person's residence commenced and by excluding the day of election.

19 C. Before administering an oath to a person touching ~~his~~ THE PERSON'S
 20 residence, the inspector ~~shall~~, if requested by any person, SHALL read to the
 21 person challenged the rules set forth in subsection A.

22 Sec. 6. Section 16-602, Arizona Revised Statutes, is amended to read:

23 16-602. Removal of ballots from ballot boxes; disposition of
 24 ballots folded together or excessive ballots

25 A. The ballots cast in the election shall first be removed from the
 26 ballot box and counted without being opened, except as may be necessary to
 27 ascertain that the number of ballots cast corresponds with the number of
 28 names on the poll lists. FOR ANY PRIMARY OR GENERAL ELECTION IN WHICH THE
 29 VOTES ARE CAST BY AN ELECTRONIC VOTING MACHINE OR TABULATOR, THE ELECTION
 30 JUDGE SHALL COMPARE THE NUMBER OF VOTES CAST AS INDICATED ON THE MACHINE OR
 31 TABULATOR WITH THE NUMBER OF VOTES CAST AS INDICATED ON THE POLL LIST AND
 32 THAT INFORMATION SHALL BE NOTED IN A WRITTEN REPORT PREPARED AND SUBMITTED TO
 33 THE OFFICER IN CHARGE OF ELECTIONS ALONG WITH OTHER TALLY REPORTS.

34 B. If two or more ballots are found folded together appearing as a
 35 single ballot, they shall be laid aside until the count of the ballots is
 36 completed. If it then appears by comparison of the count with the number of
 37 names on the poll lists, that the ballots thus folded together were cast by
 38 one elector, they shall be destroyed. If the ballots in the box are still
 39 found to exceed in number the names on the poll lists, the ballots, except
 40 those destroyed, shall be replaced in the box, and one of the judges ~~shall~~,
 41 without looking in the box, SHALL draw therefrom, one at a time, and destroy
 42 unopened, a number of ballots equal to the excess, and the election board
 43 shall record on the poll lists the number of ballots so destroyed and shall
 44 then sign the poll list.

1 Sec. 7. Section 16-610, Arizona Revised Statutes, is amended to read:
2 16-610. Uncertainty of voter's choice as cause for rejection

3 A. If on any ballot the names of more persons are designated for the
4 same office than are to be chosen, or if for any reason it is impossible to
5 positively determine the voter's choice, all the names designated for that
6 office shall be rejected.

7 B. IF ANY BALLOT HAS BEEN MARKED OR DESIGNATED IN A MANNER OTHER THAN
8 THE MANNER PRESCRIBED IN THE VOTING INSTRUCTIONS FOR THAT BALLOT, AN ELECTION
9 OFFICER MAY NOT ATTEMPT TO INFER THE INTENT OF THE VOTER AND THE BALLOT SHALL
10 BE REJECTED.

11 Sec. 8. Section 16-621, Arizona Revised Statutes, is amended to read:
12 16-621. Proceedings at the counting center

13 A. All proceedings at the counting center shall be under the direction
14 of the board of supervisors or other officer in charge of elections and shall
15 be conducted in accordance with the approved instructions and procedures
16 manual provided for in section 16-452 under the observation of
17 representatives of each political party and the public, but no persons except
18 those authorized for the purpose shall touch any ballot or ballot card or
19 return. All persons who are engaged in processing and counting of the
20 ballots shall be deputized in writing and take an oath that they will
21 faithfully perform their assigned duties. There shall be no preferential
22 counting of ballots for the purpose of projecting the outcome of the
23 election. If any ballot, INCLUDING ANY BALLOT RECEIVED FROM EARLY VOTING, is
24 damaged or defective so that it cannot properly be counted by the automatic
25 tabulating equipment, a true duplicate copy shall be made of the damaged
26 ballot in the presence of witnesses and substituted for the damaged
27 ballot. All duplicate ballots shall be clearly labeled "duplicate" and shall
28 bear a serial number which shall be recorded on the damaged or defective
29 ballot.

30 B. If for any reason it becomes impracticable to count all or a part
31 of the ballots with tabulating equipment, the officer in charge of elections
32 may direct that they be counted manually, following as far as practicable the
33 provisions governing the counting of paper ballots.